

SETTLEMENT OF ACCOUNTS OF DISBURSING OFFICERS

APRIL 7 (legislative day, MARCH 30, 1942).—Ordered to be printed

Mr. JOHNSON of Colorado, from the Committee on Military Affairs,
submitted the following

REPORT

[To accompany S. 503]

The Committee on Military Affairs, to whom was referred the bill (S. 506) to require the issuance by the General Accounting Office of a quarterly certificate of settlement of money accounts to United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia, having considered the same, report favorably thereon with the recommendation that it do pass, as amended.

This measure provides that a quarterly certificate of settlement of money accounts shall be issued by the General Accounting Office to United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia, within a period not to exceed 3 years from the date of expiration of the quarter to which such certificate of settlement pertains, such certificate of settlement to be final and conclusive for such quarter, no further charges or debts to be raised after its issuance.

The measure further provides that all unsettled, suspended, or disallowed items heretofore raised in the disbursing accounts of United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia at a date more than 3 years subsequent to the date of expiration of the quarterly accounts to which they pertain, shall be passed for credit by the General Accounting Office.

The General Accounting Office has been designated by law as the agency to receive and examine accounts relating to the Military Establishment, including accounts of United States property and disbursing officers of the National Guard. It is required that these accounts shall be mailed to the War Department within 10 days after the end of the month to which they relate, and then transmitted to the General Accounting Office within 20 days of their actual receipt in Washington in the case of monthly accounts and within 60 days in the case of quarterly accounts.

The average time required to complete a settlement is approximately 7 or 8 months after receipt of the account in the General Accounting Office. If an account involves questions of irregularity, some delay follows.

In the testimony given before the Senate Committee on Military Affairs by the adjutants general of the National Guard of the several States in connection with the same measure in the Seventy-sixth Congress, instances were cited where the General Accounting Office has suspended accounts and deferred issuance of certificates of settlement from 3 to 18 years.

It does not seem reasonable nor good administration that settlement of accounts should extend beyond 3 years, nor does it seem proper, once an account has been duly settled, that it should be reopened after 3 years.

It is the opinion of this committee that 3 years constitute ample time for an audit of the accounts of any officer and for ascertaining and establishing the facts relating to suspected or questionable payments.

The measure has been amended by striking out all after the enacting clause and substituting a new text in accordance with the recommendations of the Comptroller General and of the War Department, to make it applicable not only to the United States property and disbursing officers of the National Guard but to all disbursing officers under the executive branch of the Government.

Letter of the Comptroller General to the Director of the Bureau of the Budget, under date of April 15, 1941, follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, April 15, 1941.

The DIRECTOR, BUREAU OF THE BUDGET.

SIR: I have your letter of March 18, 1941, requesting my views on bill S. 506 and certain proposed amendments thereto set forth in a submitted draft of a report of the Secretary of War.

S. 506 as introduced is entitled "A bill to require the issuance by the General Accounting Office of a quarterly certificate of settlement of money accounts to United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia" and provides as follows:

"That a quarterly certificate of settlement of money accounts be issued by the General Accounting Office to United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia, within a period not to exceed three years from the date of expiration of the quarter to which such certificate of settlement pertains, such certificate of settlement to be final and conclusive for such quarter, no further charges or debts to be raised after its issuance: *Provided*, That all unsettled, suspended, or disallowed items heretofore raised in the disbursing accounts of United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia at a date more than three years subsequent to the date of expiration of the quarterly accounts to which they pertain be passed for credit by the General Accounting Office."

The proposed report of the Secretary of War is as follows:

"The War Department is opposed to the enactment of S. 506, a bill 'To require the issuance by the General Accounting Office of a quarterly certificate of settlement of money accounts to United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia,' in its present form. However, the War Department favors the enactment of S. 506 with certain changes.

"The purpose of the proposed legislation, as written, is twofold.

"1. To require the General Accounting Office to issue a final and conclusive quarterly certificate of settlement of money accounts to United States property and disbursing officers of the National Guard within a period of three years.

"2. To require the General Accounting Office to pass for credit all payments unsettled, suspended, or disallowed in the accounts of the United States property and disbursing officers where such transactions took place within three years subsequent to the date of expiration of the quarterly accounts to which they pertain.

"It is the view of the War Department that so far as S. 506 contemplates the prompt settlement of disbursing accounts, the periodical issuance of certificates of settlement to accomplish that end, and the prescription of a statutory limitation of time after which no accounts of United States property and disbursing officers, once settled, may be reopened and additional amounts charged against said officers, it is legislation which should receive the favorable consideration of the Congress. However, the War Department is of the opinion that the measure should be amended to make it applicable to all disbursing officers under the executive branch of the Government and not limited to United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia.

"No reason is perceived by the War Department why a period of limitation beyond which closed accounts may not be reopened and additional debts charged against disbursing officers of the executive branch of the Government should not be made operative with respect to disbursing officers, with some self-evident exceptions hereafter discussed. The statute books are replete with provisions of law placing limitations as to the time beyond which a given course of action, otherwise authorized, may not be taken. These statutes of repose are designed for the protection of the sovereign and the citizen alike in their relation to each other, and have for their beneficial purpose the protection of the individual and the Government against the necessity of forever preserving evidence to defend against claims and demands. If these statutes of limitations are deemed just and proper with reference to transactions between citizens, and between citizen and Government, it is felt that some protection should likewise be afforded disbursing officers in their relations with the Government by prescribing some limitation as to the time beyond which the United States may not reopen closed accounts.

"The War Department believes, however, it would be distinctly adverse to the public interest if disbursing officers were relieved of accountability and responsibility for the loss of public funds under all circumstances. Consequently, it is suggested that the bill be amended to insure against relief of any disbursing officers by whose fraud or criminality public moneys may be or have been lost.

"The War Department further believes, that the enactment of S. 506, in its present form, might prevent the United States from effecting the recovery from the recipient of an erroneous or illegal payment. A proviso is suggested to insure that the rights of the United States would remain unimpaired in this respect.

"With a view to accomplishing the above the following changes are submitted:

"Page 1, line 4, after the word 'to' strike out the words 'United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia', appearing in lines 4, 5 and 6, and substitute 'disbursing officers under the executive branch of the Government.'

"Page 2, line 3, after the word 'issuance', preceding the proviso, delete the colon and add 'except as to moneys which may be or have been lost to the United States due to fraud or criminality on the part of said disbursing officers.'

"Page 2, line 5, after the word 'of' strike out the words 'United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia', appearing in lines 5, 6 and 7, and substitute, 'disbursing officers under the executive branch of the Government.'

"Page 2, line 10, at the end of the bill, add a proviso reading as follows: 'Provided further, That nothing herein will be construed to prohibit a recovery from any payee of public moneys illegally or erroneously paid to such payee'.

"As amended above, the bill will read as follows (added matter shown by italic and deleted matter indicated by black brackets):

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a quarterly certificate of settlement of money accounts be issued by the General Accounting Office to [United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia] *disbursing officers under the executive branch of the Government*, within a period not to exceed three years from the date of expiration of the quarter to which such certificate of settlement pertains, such certificate of settlement to be final and conclusive for such quarter, no further charges or debts to be raised after its issuance *except as to moneys which may be or have been lost to the United States due to fraud or criminality on the part of said*

disbursing officer: Provided, That all unsettled, suspended, or disallowed items heretofore raised in the disbursing accounts of [the National Guard of the United States, Territories, and the District of Columbia] disbursing officers under the executive branch of the Government, at a date more than three years subsequent to the date of expiration of the quarterly accounts to which they pertain be passed for credit by the General Accounting Office: Provided further, That nothing herein will be construed to prohibit a recovery from any payee of public moneys illegally or erroneously paid to such payee.'

"Data upon which to base an estimate of the fiscal effects, if any, of the bill are not available in the War Department.

"The War Department does not recommend the enactment of S. 506 in its present form but recommends favorable consideration of S. 506 amended as indicated above."

As introduced, S. 506 appears to be identical in form and scope with S. 3497, Seventy-sixth Congress, Third session, upon which a report was made to you by this office April 16, 1940. Also, this office submitted a report on said bill S. 3497 to the Honorable Morris Sheppard, chairman, Committee on Military Affairs, United States Senate, April 9, 1940, and a report was made to the same committee February 5, 1941, on S. 506. Copies of such reports to the committee are enclosed for your information.

The amendments proposed by the Secretary of War would extend the relief provisions of this bill to all disbursing officers under the executive branch of the Government and, in addition, would overcome to some extent the objections raised by this office. It is not believed, however, that even with the amendments as proposed by the Secretary of War the bill would accomplish the purpose apparently sought by him and at the same time properly protect the interests of the United States.

I agree with the Secretary of War to the effect that if the bill can be so amended that it will contain real merit it should not be limited to disbursing officers of the National Guard but should be made to apply to all disbursing officers under the executive branch of the Government. I understand that the primary purpose of the proposed bill is to fix a definite time within which accounts must be finally settled so as to preclude the reopening of the accounts or the making of disallowances many years after the disbursing officer had reason to believe his accounts were finally closed. With proper safeguards, I am in sympathy with that purpose.

It is noted that under the bill as proposed by the Secretary of War the quarterly settlement provided for would be final and conclusive regardless of when made; that is to say, even when made within a few months after the close of the quarter which it covers. In order properly to protect the interests of the Government such settlement should not be made final and conclusive on the Government until after the expiration of the 3-year period of limitation to be provided. Furthermore, in addition to the provisions for recoveries for losses due to fraud and criminality on the part of the disbursing officers and from the payees for moneys illegally or erroneously paid to them, the bill should contain adequate provisions so as not to preclude recovery from the disbursing officer or his surety of any balances found due the Government within the prescribed period subsequent to the end of the quarter involved.

In line with the foregoing there is suggested for consideration a substitute bill with title and provisions as follows:

"A BILL To limit the time within which the General Accounting Office shall make final settlement of the monthly or quarterly accounts of disbursing officers under the executive branch of the Government and for other purposes."

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the monthly or quarterly accounts of disbursing officers under the executive branch of the Government shall be settled by the General Accounting Office within a period of not to exceed three years from the date of expiration of the period covered by the account. A copy of the certificate of settlement in each case shall be sent to the disbursing officer involved and such settlement shall be final and conclusive after the expiration of three years from the end of the period covered thereby and no further charges or debts shall be raised in such accounts thereafter except as to moneys which have been or may be lost to the United States due to fraud or criminality on the part of said disbursing officer: Provided, That all unsettled, suspended, or disallowed items heretofore raised in the disbursing accounts of disbursing officers under the executive branch of the Government at a date more than three years subsequent*

to the date of expiration of the period covered by the account to which they pertain shall be passed to credit by the General Accounting Office in the absence of any fraud or criminality on the part of the disbursing officer involved: *Provided further*, That nothing herein shall be construed to prohibit recovery from any payee of public moneys illegally or erroneously paid to such payee or to preclude the recovery from the disbursing officer or his surety of any balances found due the Government under a settlement made within the period of three years as herein provided."

It is believed that this proposed substitute will meet with the approval of the Secretary of War.

Respectfully,

(Signed) LINDSAY C. WARREN,
Comptroller General of the United States.

Letter from the War Department under date of July 16, 1941, follows:

WAR DEPARTMENT,
Washington, July 16, 1941.

Hon. ROBERT R. REYNOLDS,
*Chairman, Committee on Military Affairs,
United States Senate.*

DEAR SENATOR REYNOLDS: The War Department is opposed to the enactment of S. 506, a bill to require the issuance by the General Accounting Office of a quarterly certificate of settlement of money accounts to United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia in its present form. However, the War Department favors the enactment of S. 506 with certain changes.

The purpose of the proposed legislation, as written, is twofold.

1. To require the General Accounting Office to issue a final and conclusive quarterly certificate of settlement of money accounts to United States property and disbursing officers of the National Guard within a period of 3 years.

2. To require the General Accounting Office to pass for credit all payments unsettled, suspended, or disallowed in the accounts of the United States property and disbursing officers where such transactions took place within 3 years subsequent to the date of expiration of the quarterly accounts to which they pertain.

It is the view of the War Department that so far as S. 506 contemplates the prompt settlement of disbursing accounts, the periodical issuance of certificates of settlement to accomplish that end, and the prescription of a statutory limitation of time after which no accounts of United States property and disbursing officers, once settled, may be reopened and additional amounts charged against said officers, it is legislation which should receive the favorable consideration of the Congress. However, the War Department is of the opinion that the measure should be amended to make it applicable to all disbursing officers under the executive branch of the Government and not limited to United States property and disbursing officers of the National Guard of the several States, Territories, and the District of Columbia.

No reason is perceived by the War Department why a period of limitation beyond which closed accounts may not be reopened and additional debts charged against disbursing officers of the executive branch of the Government should not be made operative with respect to disbursing officers, with some self-evident exceptions hereafter discussed. The statute books are replete with provisions of law placing limitations as to the time beyond which a given course of action, otherwise authorized, may not be taken. These statutes of repose are designed for the protection of the sovereign and the citizen alike in their relation to each other, and have for their beneficial purpose the protection of the individual and the Government against the necessity of forever preserving evidence to defend against claims and demands. If these statutes of limitations are deemed just and proper with reference to transactions between citizens, and between citizen and Government, it is felt that some protection should likewise be afforded disbursing officers in their relations with the Government by prescribing some limitation as to the time beyond which the United States may not reopen closed accounts.

The War Department believes, however, it would be distinctly adverse to the public interest if disbursing officers were relieved of accountability and responsibility for the loss of public funds under all circumstances. Consequently, it is suggested that the bill be amended to insure against relief of any disbursing officers by whose fraud or criminality public moneys may be or have been lost.

The War Department further believes that the enactment of S. 506, in its present form, might prevent the United States from effecting the recovery from the recipient of an erroneous or illegal payment. A proviso is suggested to insure that the rights of the United States would remain unimpaired in this respect.

With a view to accomplishing the above, the following substitute measure is suggested for the consideration of your committee:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the monthly or quarterly accounts of disbursing officers under the executive branch of the Government shall be settled by the General Accounting Office within a period of not to exceed three years from the date of expiration of the period covered by the account. A copy of the certificate of settlement in each case shall be sent to the disbursing officer involved and such settlement shall be final and conclusive after the expiration of three years from the end of the period covered thereby and no further charges or debts shall be raised in such accounts thereafter except as to moneys which have been or may be lost to the United States due to fraud or criminality on the part of said disbursing officers: *Provided*, That all unsettled, suspended, or disallowed items heretofore raised in the disbursing accounts of disbursing officers under the executive branch of the Government at a date more than three years subsequent to the date of expiration of the period covered by the account to which they pertain shall be passed to credit by the General Accounting Office in the absence of any fraud or criminality on the part of the disbursing officer involved: *Provided further*, That nothing herein shall be construed to prohibit recovery from any payee of public moneys illegally or erroneously paid to such payee or to preclude the recovery from the disbursing officer or his surety of any balances found due the Government under a settlement made within the period of three years as herein provided: *Provided further*, That nothing herein shall be construed to deprive any disbursing officer of his right at any time to clear his accounts of questioned items in accordance with the provisions of existing law.

The data upon which to base an estimate of the fiscal effects of the bill are not available in the War Department.

The War Department does not recommend the enactment of S. 506 in its present form but recommends favorable consideration of S. 506, amended as indicated above.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

ROBERT P. PATTERSON,
Acting Secretary of War.

A letter from Lewis B. Ballantyne, of the National Guard Association of the United States, under date of October 20, 1941, follows:

NATIONAL GUARD ASSOCIATION OF THE UNITED STATES,
October 20, 1941.

Hon. EDWIN C. JOHNSON,

*Chairman, Subcommittee of the Committee on Military Affairs,
United States Senate, Washington, D. C.*

MY DEAR SENATOR JOHNSON: Last Spring I was requested by Maj. Gen. Edward Martin, president of the National Guard Association of the United States to endeavor to obtain the passage by Congress of Senate bill 506, which was introduced by the late Senator Sheppard on January 23, 1941, was read twice and referred to the Committee on Military Affairs.

I have been furnished by Mr. W. I. Smalley, assistant clerk, with a copy of a revised draft of Senate bill 506 submitted by and recommended by the War Department under date of July 16, 1941, which measure was assigned on August 2, 1941, to the subcommittee of which you are the chairman. I have been informed further that the revised draft submitted by the War Department has the approval of the Comptroller General of the United States.

The revised draft recommended by the War Department meets the desires of the National Guard Association of the United States in all respects.

At the last session of Congress a similar bill to S. 506 as originally introduced, S. 3497, also introduced by the late Senator Sheppard, was passed by the Senate.

By the time it reached the House it was late in the session and required unanimous consent for consideration. The unanimous consent was opposed by one Member at the request of the General Accounting Office.

I appreciate that only the most urgent legislation is receiving attention; however, I do desire, as the representative of the National Guard Association of the United States in this matter, to very respectfully request a hearing before your subcommittee for the purpose of expressing the views and recommendations of the association as to the necessity of this legislation in the event there may be any doubt in the minds of the members of your committee regarding the merit of Senate bill 506, as amended.

Very faithfully yours,

LEWIS B. BALLANTYNE
Brigadier General, New Jersey National Guard, Retired,
Newark, N. J.

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